

REMARKS

Claim 8 is canceled without prejudice, claims 18 to 20 are added, and therefore claims 7 and 9 to 20 are now pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is therefore respectfully requested.

Applicants thank the Examiner for accepting the drawings filed August 1, 2006, for acknowledging the priority claims, and for considering the Information Disclosure Statement.

As regards paragraph 3 on page 2 of the Office Action, claims 7 to 17 were rejected under 35 U.S.C. § 102(a) as anticipated by U.S. Pat. No. 6,941,215 (“Hellmann”).

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102, the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (*See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (*See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (*See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejections may not be agreed with, to facilitate the matter, independent claim 7 has been rewritten to further clarify the subject matter and to include the subject matter of now canceled claim 8.

Claim 7, as presented, is directed to an adaptive cruise control system for a host motor vehicle and is to a sensor system for acquiring data of a present time point regarding a target object and data regarding the host vehicle, a controller for intervening in the operation of the actuator system within at least one predetermined intervention range in order to maintain a predetermined controlled target distance of the present time point to the target object, and a prediction system for predicting a conflict situation in which the predetermined controlled target distance cannot be maintained, the prediction system including: an adaptation module configured to calculate a **future prediction time point** based on the data of the present time point acquired by the sensor system, and a vehicular dynamics model of the target object and the host vehicle for calculating, while still at the present time point, predicted values for variables of vehicular dynamics of the host vehicle and the target object for the future prediction time point.

As such, claim 7 provides for calculating at the present time point *a future prediction time point based on the data of the present time point acquired by the sensor system and calculating, while still at the present time point, predicted values for variables of vehicular dynamics of the host vehicle and the target object for the future prediction time point.*

The Office Action refers to various portions of Hellmann as assertedly disclosing these features, but it does not explain how the cited portions identically disclose (or even suggest) the presently claimed subject matter. Even if the Hellmann reference may concern calculating variable values at a series of present times, it does not identically disclose (or even suggest) the feature of calculating *a future prediction time point based on the data of the present time point acquired by the sensor system* as provided for in the context of claim 7.

Further, Hellmann does not identically disclose (or even suggest) a vehicular dynamics model of the target object and the host vehicle for calculating, while still at the present time point, predicted values for variables of vehicular dynamics of the host vehicle and the target object for the future prediction time point as provided for in the context of claim 7.

Therefore, Hellmann does not identically disclose all of the features of claim 7 or of its dependent claims 9 to 17. Withdrawal of the anticipation rejections of claims 7 and 9 to 17 is therefore respectfully requested.

Accordingly, all claims 7 and 9 to 17 are allowable.

New claims 18 to 20 do not add any new matter and are supported by the present application, including the specification. Claims 18 to 20 depend from claim 7, and they are therefore at least for the same reasons and for the further reasons that they include combinations of features that are not disclosed or suggested by the applied references.

Accordingly, all claims 7 and 9 to 20 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all pending claims 7 and 9 to 20 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,
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